



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/841,219	04/24/2001	Robert Mann	6311-9	6403
21890	7590	12/21/2005	EXAMINER	
PROSKAUER ROSE LLP PATENT DEPARTMENT 1585 BROADWAY NEW YORK, NY 10036-8299			ART UNIT	PAPER NUMBER

DATE MAILED: 12/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notice of Non-Compliant
Amendment (37 CFR 1.121)**

Application No.

09/841,219

Examiner

C. Michelle Tarae

Applicant(s)

MANN ET AL.

Art Unit

3623

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The amendment document filed on 09 September 2005 is considered non-compliant because it has failed to meet the requirements of 37 CFR 1.121. In order for the amendment document to be compliant, correction of the following item(s) is required.

THE FOLLOWING MARKED (X) ITEM(S) CAUSE THE AMENDMENT DOCUMENT TO BE NON-COMPLIANT:

- ☐ 1. Amendments to the specification:
 - ☐ A. Amended paragraph(s) do not include markings.
 - ☐ B. New paragraph(s) should not be underlined.
 - ☐ C. Other _____.
- ☐ 2. Abstract:
 - ☐ A. Not presented on a separate sheet. 37 CFR 1.72.
 - ☐ B. Other _____.
- ☐ 3. Amendments to the drawings:
 - ☐ A. The drawings are not properly identified in the top margin as "Replacement Sheet," "New Sheet," or "Annotated Sheet" as required by 37 CFR 1.121(d).
 - ☐ B. The practice of submitting proposed drawing correction has been eliminated. Replacement drawings showing amended figures, without markings, in compliance with 37 CFR 1.84 are required.
 - ☐ C. Other _____.
- ☒ 4. Amendments to the claims:
 - ☒ A. A complete listing of all of the claims is not present.
 - ☐ B. The listing of claims does not include the text of all pending claims (including withdrawn claims)
 - ☒ C. Each claim has not been provided with the proper status identifier, and as such, the individual status of each claim cannot be identified. Note: the status of every claim must be indicated after its claim number by using one of the following status identifiers: (Original), (Currently amended), (Canceled), (Previously presented), (New), (Not entered), (Withdrawn) and (Withdrawn-currently amended).
 - ☐ D. The claims of this amendment paper have not been presented in ascending numerical order.
 - ☒ E. Other: see attached.

For further explanation of the amendment format required by 37 CFR 1.121, see MPEP § 714 and the USPTO website at <http://www.uspto.gov/web/offices/pac/dapp/opla/preognotice/officeflyer.pdf>.

TIME PERIODS FOR FILING A REPLY TO THIS NOTICE:

1. Applicant is given **no new time period** if the non-compliant amendment is an after-final amendment or an amendment filed after allowance. If applicant wishes to resubmit the non-compliant after-final amendment with corrections, the **entire corrected amendment** must be resubmitted within the time period set forth in the final Office action.
2. Applicant is given **one month**, or thirty (30) days, whichever is longer, from the mail date of this notice to supply the **corrected section** of the non-compliant amendment in compliance with 37 CFR 1.121, if the non-compliant amendment is one of the following: a preliminary amendment, a non-final amendment (including a submission for a request for continued examination (RCE) under 37 CFR 1.114), a supplemental amendment filed within a suspension period under 37 CFR 1.103(a) or (c), and an amendment filed in response to a *Quayle* action.

Extensions of time are available under 37 CFR 1.136(a) only if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action.

Failure to timely respond to this notice will result in:

Abandonment of the application if the non-compliant amendment is a non-final amendment or an amendment filed in response to a *Quayle* action; or

Non-entry of the amendment if the non-compliant amendment is a preliminary amendment or supplemental amendment.

NOTICE OF NON-RESPONSIVE AMENDMENT

The amendment filed September 9, 2005 is considered non-responsive as it contains several deficiencies.

1. The first deficiency is that the Listing of Claims (pages 2-9) and the Remarks (pages 10-14) indicate an incorrect Application Number in the upper right-hand of the pages. The incorrect Application No. is 09/891,945. The correct Application No. is 09/841,219.
2. The second issue is the Listing of Claims and the status identifiers beginning on page 2 are not consistent with the Applicant's Remarks on page 10 regarding the canceled claims and the currently pending claims. The Listing of Claims indicates claims 2, 3, 8-20, 27 and 34-55 as canceled and claims 1, 4-7, 21-26 and 28-33 as currently pending. The Remarks indicate claims 2, 3, 8-21, 28, 35-55 as canceled and claims 1, 4-7, 22-27 and 29-34 as currently pending. Examiner also notes that in the Final Office Action the status of the claims were as follows: claims 2, 3, 8-21, 28 and 35-56 were canceled and claims 1, 4-7, 22-27 and 29-34 were pending. Accordingly, there is no consistency as to the status of the claims in the Response, making it unclear what claims Applicant intends to be canceled and what claims to be pending.
3. The third issue is that beginning from claim 21 in the current Listing of Claims, the claims are not the same as the claims examined in the Final Office Action. It

Art Unit: 3623

appears that the claims were inadvertently misnumbered making the claims be offset by one. For example, claim 21 in the current Listing of Claims is the same as claim 22 examined in the Final Office Action; current claim 22 is the same as claim 23 from the Final Office Action; claim 56 is completely missing from the current Listing of Claims, etc.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Michelle Tarae (formerly, C. Michelle Colon) whose telephone number is 571-272-6727. The examiner can normally be reached Monday – Friday from 8:30am to 5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz, can be reached at 571-272-6729.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any response to this action should be mailed to:

Commissioner for Patents

P.O. Box 1450

Art Unit: 3623

Alexandria, VA 22313-1450

or faxed to:

703-872-9306 [Official Communications; including After Final
communications labeled "Box AF"]

571-273-6727 [For status inquiries, draft communication, labeled
"Proposed" or "Draft"]

Hand delivered responses should be brought to:

United States Patent and Trademark Office

Customer Service Window

Randolph Building

401 Dulany Street

Alexandria, VA 22314


cmt

December 19, 2005


TARIQ R. HAFIZ
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600